

1 BAILUS COOK & KELESIS, LTD.  
2 GEORGE P. KELESIS, ESQ. (0069)  
3 MARK B. BAILUS, ESQ. (2284)  
4 400 South Fourth Street, Suite 300  
5 Las Vegas, Nevada 89101  
6 Telephone: (702) 737-7702  
7 Facsimile: (702) 737-7712

8 BINGHAM MCCUTCHIN, LLP  
9 NATHAN J. HOCHMAN, ESQ.  
10 DANIEL A. SANDERS, ESQ.  
11 The Water Garden  
12 Fourth Floor, North Tower  
13 1620 North 26<sup>th</sup> Street  
14 Santa Monica, California 90404-4060  
15 Telephone: (310) 907-1000  
16 Facsimile: (310) 907-2000

17 *Attorneys for Defendant*

18 **UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 \* \* \*

21 UNITED STATES OF AMERICA, )

22 Plaintiff, )

23 vs. )

24 RUSSELL PIKE, )

25 Defendant. )

Case No. 2:09-cr-0147-JCM-GWF

**ERRATA TO STIPULATION AND  
ORDER TO CONTINUE FILING  
DEADLINES  
(Third Request)**

26 COMES NOW, Defendant, Russell Pike, by and through his counsel of record, GEORGE  
27 P. KELESIS, ESQ. and MARK B. BAILUS, ESQ., of the law firm BAILUS COOK & KELESIS,  
28 LTD., and hereby files this Errata to the Stipulation and Order to Continue Filing Deadline (Dkt.  
No. 172). After reviewing the above-mentioned stipulation and order to continue filing deadlines  
it came to undersigned counsel's attention that the same contained a typographical and/or clerical  
error. Please delete the phrase "August 6, 2012" from page 6 lines 1-2 and replace the same with  
the phrase "July 30, 2012". Further, the word "Stated" on page 6 lines 2 should be deleted and  
replaced by the word "States". The corrected sentence in the order approving stipulation should  
read "IT IS FURTHER ORDERED that the Defendant shall have up to and including July 30,

1 2012 within which to submit to United States Probation has objections to the presentence  
2 investigation report. Attached hereto as Exhibit "A" is a corrected version of the Stipulation and  
3 Order to Continue Filing Deadlines (Dkt. No. 172).

4 Dated this 6<sup>th</sup> day of July, 2012

5 BAILUS COOK & KELESIS, LTD.

6  
7 By                     /s/                      
8 MARK B. BAILUS, ESQ.  
9 Counsel for Defendant  
10 RUSSELL PIKE  
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***EXHIBIT "A"***

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*Attorneys for Defendant*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
RUSSELL PIKE,  
Defendant.

Case No. 2:09-cr-0147-JCM-GWF

**STIPULATION AND ORDER TO  
CONTINUE FILING DEADLINES  
(Third Request)**

**IT IS HEREBY STIPULATED AND AGREED**, by and between DANIEL G. BOGDEN, United States Attorney, and NICHOLAS DICKINSON and TIMOTHY S. VASQUEZ, Assistant United States Attorneys, counsel for the Plaintiff, the UNITED STATES OF AMERICA, and GEORGE P. KELESIS, ESQ. and MARK B. BAILUS, ESQ., of the law firm BAILUS COOK & KELESIS, LTD., NATHAN J. HOCHMAN, ESQ., and DANIEL A. SANDERS, ESQ., of the law firm of BINGHAM MCCUTCHIN, LLP, counsel for the Defendant, RUSSELL PIKE, that the filing deadline to file replies to the Government's responses (Dkt. Nos. 170 and 171) set for July 6, 2012, be continued to July 12, 2012 and that the sentencing date in the above-captioned matter currently scheduled for August 6, 2012 at 11:00 a.m., be vacated and

1 continued to the week of August 27, 2012, or to a date thereafter which is convenient to the Court.  
2 Further, Defendant's objections to the presentence investigation report to United State Probation  
3 due July 9, 2012, be continued to July 30, 2012. This Stipulation is entered into for the following  
4 reasons:

5 1. The Defendant filed a motion for a judgment of acquittal (Dkt. No. 157) and a  
6 motion for a new trial (Dkt. No. 158) on June 15, 2012. The Government filed its response (Dkt.  
7 Nos. 170 and 171) on July 2, 2012. The Government had relied on the response due date  
8 automatically generated by Pacer rather than the stipulated date of June 29, 2012. Realizing the  
9 same, the Government notified defense counsel who had no opposition to the July 2, 2012, filing  
10 but needs additional time to research and prepare the replies.

11 2. After receiving the presentence investigation report ("PSR") counsel for Defendant  
12 has been in the process of reviewing the same, researching sentencing issues and conducting his  
13 investigation. The PSR contains certain matters regarding Defendant's criminal history which  
14 Defendant needs additional time to investigate and/or verify the same.

15 3. The parties stipulate that the defense shall have an extension of time up to and  
16 including July 12, 2012 within which the defense may file replies to the Government's responses  
17 (Dkt. Nos. 170 and 171) and up to and including July 30, 2012, to submit to United States  
18 Probation his objections to the PSR.

19 4. The extensions of time herein are authorized by the Federal Rules of Criminal  
20 Procedure. This Stipulation does not invoke any of the provisions of the Speedy Trial Act.

21 5. The parties agree to the continuance sought herein.

22 6. The Defendant does not object to the continuance sought in this matter.

23 7. Additionally, denial of this request for continuance could result in a miscarriage of  
24 justice.

8. This is the third request for a stipulated extension of time for the filing of replies related to the motion for a judgment of acquittal and/or motion for new trial in this matter.

BAILUS COOK & KELESIS, LTD.

UNITED STATES ATTORNEY'S OFFICE

By \_\_\_\_\_ /s/  
GEORGE P. KELESIS, ESQ.  
MARK B. BAILUS, ESQ.  
Counsel for Defendant  
RUSSELL PIKE

By /s/  
NICHOLAS DICKINSON  
Assistant United States Attorney  
Counsel for Plaintiff  
UNITED STATES OF AMERICA

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 UNITED STATES OF AMERICA, )

5 Plaintiff, )

6 vs. )

7 RUSSELL PIKE, )

8 Defendant. )  
9

Case No. 2:09-cr-0147-JCM-GWF

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER**

10 **FINDINGS OF FACT**

11 Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court  
12 finds that:

13 1. The Defendant filed a motion for a judgment of acquittal (Dkt. No. 157) and  
14 a motion for a new trial (Dkt. No. 158) on June 15, 2012. The Government filed its response (Dkt.  
15 Nos. 170 and 171) on July 2, 2012. The Government had relied on the response due date  
16 automatically generated by Pacer rather than the stipulated date of June 29, 2012. Realizing the same,  
17 the Government notified defense counsel who had no opposition to the July 2, 2012, filing but needs  
18 additional time to research and prepare the replies.

19 2. After receiving the presentence investigation report ("PSR") counsel for Defendant  
20 has been in the process of reviewing the same, researching sentencing issues and conducting his  
21 investigation. The PSR contains certain matters regarding Defendant's criminal history which  
22 Defendant needs additional time to investigate and/or verify the same.

23 3. The parties stipulate that the defense shall have an extension of time up to and  
24 including July 12, 2012 within which the defense may file replies to the Government's responses  
25 (Dkt. Nos. 170 and 171) and up to and including July 30, 2012, to submit to United States Probation  
26 his objections to the PSR.

27 4. The extensions of time herein are authorized by the Federal Rules of Criminal  
28 Procedure. This Stipulation does not invoke any of the provisions of the Speedy Trial Act.

5. The parties agree to the continuance sought herein.

6. The Defendant does not object to the continuance sought in this matter.

7. Additionally, denial of this request for continuance could result in a miscarriage of justice.

8. This is the third request for a stipulated extension of time for the filing of replies related to the motion for a judgment of acquittal and/or motion for new trial in this matter.

For all of the above-stated reasons, the ends of justice would best be served by a continuance of the filing deadlines and sentencing.

## CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the Defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time, and the opportunity, within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(1)(F) and Title 18, United States Code, Section 3161(h)(8)(A), when considering the factors under Title 18, United States Code, Sections 3161(h)(8)(B)(I) and 3161(h)(8)(B)(iv).

## ORDER APPROVING STIPULATION

The Court having read and considered the Stipulation, and the reasons in support thereof for an extension of time for the filing of a motion for a judgment of acquittal and/or motion for new trial, the Findings of Facts and Conclusions of Law in the above matter and good cause appearing:

**IT IS THEREFORE ORDERED** that the defense shall have an extension of time up to and including July 12, 2012 within which the Defendant may file replies to the Government's responses (Dkt. Nos. 170 and 171).



**IT IS FURTHER ORDERED** that the Defendant shall have up to and including July 30, 2012, within which to submit to United States Probation his objections to the presentence investigation report.

**IT IS FURTHER ORDERED** that the sentencing presently set for August 6, 2012, at 11:00 a.m., is hereby vacated, and continued to the 27th day of August, 2012, at 10:00 a.m.

DATED this 9th day of July, 2012.

James C. Mahan  
JAMES C. MAHAN  
United States District Court Judge